

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-883-2022

Date of Decision: 05.07.2022

Bahadur Singh & others

.....Appellants

Versus

State of Punjab & another

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Arvind Mittal, Advocate, for the appellants.

Mr. A.A.Pathak, Addl. AG, Punjab.

Mr. N.K.Verma, Advocate, for the complainant.

GURVINDER SINGH GILL, J.

1. The appellants, namely, Bahadur Singh, Sukhchain Singh, Sukhwinder Singh & Jaspal Singh assail order dated 04.05.2022 (Annexure P-6) vide which an application filed by them under Section 438 Cr.P.C. seeking grant of anticipatory bail in a case arising out of FIR No.78 dated 21.04.2022 registered at Police Station City, Rajpura, under Section 3(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 506 IPC has been dismissed by the Court of learned Additional Sessions Judge, Patiala.
2. The FIR in question was lodged at the instance of Jaswinder Singh, wherein it is alleged that he had purchased a plot situated in Islampur, Tehsil Rajpura from Karamjit Singh and after registration of sale deed, mutation had been duly sanctioned in his favour. The complainant had started 'earth filling' work on his plot and had also started raising boundary wall. On 07.12.2021, he stored some articles to be used for boring a tube well. However, the

accused came there and restrained him from boring tube well at that place. The complainant in order to avoid any quarrel shifted the boring to an alternate place. However, in the evening, Bahadur Singh and Raghbir Singh came at his plot and issued threats to the labourers working there, who being scared went away leaving the work and informed the complainant telephonically. On 08.12.2021, the complainant arranged for more labour. At about 10.00 AM, the accused came at his plot and hurled abuses in the name of his caste and called him '*Chamar, Gittal*' and stated that they will not allow a '*Chamar*' to raise construction. When the complainant tried to reason out with them, the said accused got enraged and started throwing brick bats. The labourers being scared, went away from the spot. The complainant managed to save his life by moving away from the spot. The complainant, thus, alleged that the accused are criminal type of persons and he apprehends threat at their hands and that whenever he visits his plot, the accused utter derogatory words against his caste.

3. Learned counsel for the appellants has submitted that the FIR has falsely been lodged against the appellants so as to pressurize them to give up their genuine claim in a civil suit (Annexure P-2), which has been instituted by the appellants against the complainant Jaswinder Pal Singh & others. It has been submitted that in fact Karamjit Singh, who had sold the land to the complainant, is none else but real brother of appellants No.1 to 3, namely, Bahadur Singh, Sukhchain Singh & Sukhwinder Singh and that the land which he had sold to the complainant was a part of the joint land held by all the brothers. It has been submitted that the dispute had arisen as the complainant in connivance with Karamjit Singh, brother of appellants No.1

to 3, was trying to occupy the more valuable land abutting the main road without getting the same partitioned.

4. Learned counsel has further submitted that since the facts *prima facie* show that the lodging of FIR is basically a tool to exert pressure and has been falsely lodged, the appellants deserve the concession of anticipatory bail and that the bar of Section 18 of the SC & ST (Prevention of Atrocities) Act would not come into their way particularly in view of the ratio of judgment rendered by the Hon'ble Supreme Court in Dr. Subhash Kashinath Mahajan Vs. State of Maharashtra & another, 2018(2) RCR (Criminal) 552; (2018) 6 SCC 454.
5. On the other hand, learned State counsel assisted by learned counsel for the complainant has vehemently opposed the appeal while submitting that since specific and categoric allegations of having used objectionable words against the caste of the complainant have been leveled against the appellants in the FIR, it cannot be said that no case is made out against them. It has further been submitted that the mere fact that some civil litigation is pending between the parties cannot *ipso facto* be construed to mean that any criminal case instituted amongst the parties would be a false case. It has further been submitted that the appellants have a criminal background, having been involved in several cases and that in these circumstances, they do not deserve the concession of anticipatory bail.
6. I have considered rival submissions addressed before this Court.
7. Before proceeding to weigh the contentions raised before this Court, a reference needs to be made to the judgment pressed into service by the

learned counsel for the appellants. The relevant extract from Dr. Subhash Kashinath Mahajan's case (supra) reads as under:

“68. Accordingly, we have no hesitation in holding that exclusion of provision for anticipatory bail will not apply when no prima facie case is made out or the case is patently false or mala fide. This may have to be determined by the Court concerned in facts and circumstances of each case in exercise of its judicial discretion. In doing so, we are reiterating a well established principle of law that protection of innocent against abuse of law is part of inherent jurisdiction of the Court being part of access to justice and protection of liberty against any oppressive action such as mala fide arrest. In doing so, we are not diluting the efficacy of Section 18 in deserving cases where Court finds a case to be prima facie genuine warranting custodial interrogation and pre-trial arrest and detention.”

8. A perusal of the relevant extract of the said judgment, as reproduced above, would show that the bar of Section 18 of the SC & ST (Prevention of Atrocities) Act is not an absolute bar and in fit cases where the Court is of the opinion that no offence is made out or that the FIR under the SC & ST (Prevention of Atrocities) Act has been lodged falsely or with some oblique motive, the Court can exercise jurisdiction in terms of Section 438 Cr.P.C. so as to grant anticipatory bail.
9. There is certainly no dispute as regards the broad proposition of law set forth in the cited judgment. The question to be determined herein is as to whether the facts of the present case are such so as to hold that the case is of exceptional nature warranting exercise of jurisdiction under Section 438 Cr.P.C. A perusal of the FIR would show that specific allegations have been leveled therein against the appellants having used objectionable words with respect to caste of the complainant. At the same time, it is also evident that there is some civil litigation going on amongst the parties, which could furnish a motive to the complainant to falsely implicate the appellants so as

to pressurize them. However, the fact that the appellants are involved in some other cases as well would tend to reflect on their criminal antecedents. In these circumstances, this Court does not find the instant case to be appropriate or fit enough so as to justify grant of anticipatory bail despite bar of Section 18 of the SC&ST (Prevention of Atrocities) Act for grant of the same. As such, finding no merit in the instant appeal, the same is hereby dismissed.

10. However, having regard to the nature of allegations, which would not justify any case for custodial interrogation and also the fact that the veracity of the allegations, particularly in view of pending civil litigation, is yet to be established, it is ordered that in case the appellants surrender before the trial Court within 10 days from today and move an application for grant of regular bail in the forenoon of the day, the trial Court shall endeavour to dispose of the same expeditiously, preferably on the day of filing of such application itself while duly taking into account the fact that nothing is to be recovered from the appellants.

05.07.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No